

# BIRCH, STEWART, KOLASCH & BIRCH, LLP

INTELLECTUAL PROPERTY LAW  
8110 GATEHOUSE ROAD  
SUITE 500 EAST  
FALLS CHURCH, VA 22042-1210  
USA  
(703) 205-8000

FAX: (703) 205-8050  
(703) 698-8590 (G IV)

e-mail: mailroom@bskb.com  
web: http://www.bskb.com

CALIFORNIA OFFICE:  
COSTA MESA, CALIFORNIA

JAMES T. ELLER, JR.  
SCOTT L. LOWE  
D. RICHARD ANDERSON  
PAUL C. LEWIS  
MARK W. MILSTEAD\*  
RICHARD J. GALLAGHER  
JAYNE M. SAYDAH\*  
MARYANNE ARMSTRONG, PH.D.  
KECIA J. REYNOLDS  
ROBERT L. SCOTT, II  
KALPANA REDDY  
LARRY J. HUME

REG. PATENT AGENTS:  
FREDERICK R. HANDREN  
MAKI HATSUMI  
CRAIG A. MCROBBIE  
GARTH M. DAHLEN, PH.D.  
ROBERT E. GOOZNER, PH.D.  
MATTHEW J. LATTIG  
TIMOTHY R. WYCKOFF  
KRISTIL L. RUPERT, PH.D.  
HARAY A. SAYADIAN, PH.D.  
MATTHEW T. SHANLEY  
JASON W. RHODES  
CHRISTINA F. ANNICK  
SUSAN W. GORMAN, PH.D.  
DAVID J. CHO

TERRELL C. BIRCH  
RAYMOND C. STEWART  
JOSEPH A. KOLASCH  
JAMES M. SLATTERY  
BERNARD L. SWEENEY\*  
MICHAEL K. MUTTER  
CHARLES GORENSTEIN  
GERALD M. MURPHY, JR.  
LEONARD R. SVENSSON  
TERRY L. CLARK  
ANDREW D. MEIKLE  
MARC S. WEINER  
JOE MCKINNEY MUNCY  
ROBERT J. KENNEY  
DONALD J. DALEY  
JOHN W. BAILEY  
JOHN A. CASTELLANO  
GARY D. YACURA  
THOMAS S. AUCHTERLONIE  
MARK J. NUEL, PH.D.

OF COUNSEL:  
HERBERT M. BIRCH (1905-1996)  
ELLIOT A. GOLDBERG\*  
WILLIAM L. GATES\*  
EDWARD H. VALANCE  
RUPERT J. BRADY (RET.)\*  
F. PRINCE BUTLER  
FRED S. WHISENHUNT  
JAMES W. HELLWEGE

\*ADMITTED TO A BAR OTHER THAN VA.

Date: August 24, 2001

Docket No.: 2750-1481P

## BOX PATENT APPLICATION

Assistant Commissioner for Patents  
Washington, DC 20231

Sir:

As authorized by the inventor(s), transmitted herewith for filing is a patent application applied for on behalf of the inventor(s) according to the provisions of 37 C.F.R. § 1.41(c), which claims priority under 35 U.S.C. § 119(e) of Provisional Application Nos.

Country	Attorney Docket No.	Application No.	Filed
United States	2750-1156P	60/228,279	8/25/00
United States	2750-2137P	Client No. 92004.005	8/25/00
United States	2750-2136P	60/228,247	8/25/00
United States	2750-2135P	60/228,246	8/25/00
United States	2750-1155P	60/228,224	8/25/00

Inventor(s): ALEXANDROV, Nickolai and BROVER, Vyacheslav

For: POLYNUCLEOTIDES, POLYPEPTIDES, CELLS, AND METHODS  
THEREOF CAPABLE OF MODULATING VARIOUS RESPONSES

Enclosed are:

- ☒ A specification consisting of a description (808 pages), claims (4 pages), an abstract (1 page) and a schematic (1 page), totaling eight hundred and fourteen (814) pages
- ☐ ( ) sheet(s) of formal drawings
- ☐ Certified copy of Priority Document(s)

- ☒ Executed Declaration in accordance with 37 C.F.R. § 1.64 will follow
- ☒ Applicant claims small entity status under 37 C.F.R. § 1.27
- ☐ Preliminary Amendment
- ☒ Information Sheet
- ☐ Information Disclosure Statement, PTO-1449 and reference(s)
- ☐ Amend the specification by inserting before the first line the sentence:

--This application claims priority on provisional Application No. \_\_\_\_\_ filed on \_\_\_\_\_, the entire contents of which are hereby incorporated by reference.--

- ☒ Two identical CD-Rs created using IBM-PC, MS-Windows operating system. The files contained on the CD-R are as follows:

File Name	Date of Creation	File Size
010809 Protein Domain Table	August 09, 2001	2.62MB
2750-1481P AFLP_Diff Table 1	August 23, 2001	14.7KB
2750-1481P AFLP_Diff Table 2	August 23, 2001	8.73KB
2750-1481P AFLP_Diff Table 3	August 23, 2001	4.09KB
2750-1481P AFLP_Diff Table 4	August 23, 2001	7.85KB
2750-1481P AFLP_Diff Table 5	August 23, 2001	27.1KB
2750-1481P AFLP_Diff Table 6	August 23, 2001	24.3KB
2750-1481P AFLP_Diff Table 7	August 23, 2001	18.7KB
2750-1481P AFLP_Diff Table 8	August 23, 2001	36.3KB
2750-1481P AFLP_Diff Table 9	August 23, 2001	16.9KB
2750-1481P AFLP_Diff Table 10	August 23, 2001	33.2KB
2750-1481P Nitrogen Reference Table 1-01	August 23, 2001	4.42MB
2750-1481P Nitrogen Reference Table 1-02	August 23, 2001	2.81MB
2750-1481P Nitrogen Reference Table 1-03	August 23, 2001	43.9KB
2750-1481P Nitrogen Reference Table 1-04	August 23, 2001	27.0KB
2750-1481P GA Reference Table 1-05	August 23, 2001	1.36MB
2750-1481P GA Reference Table 1-06	August 23, 2001	2.7MB
2750-1481P GA Reference Table 1-07	August 23, 2001	15.8KB
2750-1481P GA Reference Table 1-08	August 23, 2001	22.7KB
2750-1481P SA Reference Table 1-09	August 23, 2001	7.88MB
2750-1481P SA Reference Table 1-10	August 23, 2001	7.28MB
2750-1481P SA Reference Table 1-11	August 23, 2001	103KB

IN THE U.S. PATENT AND TRADEMARK OFFICE

**COMPACT DISK TRANSMITTAL LETTER**

Applicant: ALEXANDROV, Nickolai and BROVER, Vyacheslav  
Appl. No.: NEW  
Filed: August 24, 2001  
For: POLYNUCLEOTIDES, POLYPEPTIDES, CELLS, AND METHODS  
THEREOF CAPABLE OF MODULATING VARIOUS RESPONSES

The application identified above contains two (2) identical CD-Rs created using IBM-PC, MS-Windows operating system. The files contained on the CD-R are as follows:

File Name	Date of Creation	File Size
010809 Protein Domain Table	August 09, 2001	2.62MB
2750-1481P AFLP_Diff Table 1	August 23, 2001	14.7KB
2750-1481P AFLP_Diff Table 2	August 23, 2001	8.73KB
2750-1481P AFLP_Diff Table 3	August 23, 2001	4.09KB
2750-1481P AFLP_Diff Table 4	August 23, 2001	7.85KB
2750-1481P AFLP_Diff Table 5	August 23, 2001	27.1KB
2750-1481P AFLP_Diff Table 6	August 23, 2001	24.3KB
2750-1481P AFLP_Diff Table 7	August 23, 2001	18.7KB
2750-1481P AFLP_Diff Table 8	August 23, 2001	36.3KB
2750-1481P AFLP_Diff Table 9	August 23, 2001	16.9KB
2750-1481P AFLP_Diff Table 10	August 23, 2001	33.2KB
2750-1481P Nitrogen Reference Table 1-01	August 23, 2001	4.42MB
2750-1481P Nitrogen Reference Table 1-02	August 23, 2001	2.81MB
2750-1481P Nitrogen Reference Table 1-03	August 23, 2001	43.9KB
2750-1481P Nitrogen Reference Table 1-04	August 23, 2001	27.0KB
2750-1481P GA Reference Table 1-05	August 23, 2001	1.36MB
2750-1481P GA Reference Table 1-06	August 23, 2001	2.7MB
2750-1481P GA Reference Table 1-07	August 23, 2001	15.8KB
2750-1481P GA Reference Table 1-08	August 23, 2001	22.7KB
2750-1481P SA Reference Table 1-09	August 23, 2001	7.88MB
2750-1481P SA Reference Table 1-10	August 23, 2001	7.28MB
2750-1481P SA Reference Table 1-11	August 23, 2001	103KB
2750-1481P SA Reference Table 1-12	August 23, 2001	106KB
2750-1481P Reference Table 1-13	August 23, 2001	6.15MB
2750-1481P Reference Table 1-14	August 23, 2001	9.04MB
2750-1481P Reference Table 1-15	August 23, 2001	73.1KB
2750-1481P Reference Table 1-16	August 23, 2001	96.2KB
2750-1481P Reference Table 1-17	August 23, 2001	5.96MB
2750-1481P Reference Table 1-18	August 23, 2001	8.63MB

2750-1481P Reference Table 1-19	August 23, 2001	53.2KB
2750-1481P Reference Table 1-20	August 23, 2001	112KB
2750-1481P Nitrogen Sequence Table 2-01	August 23, 2001	6.30MB
2750-1481P Nitrogen Sequence Table 2-02	August 23, 2001	4.48MB
2750-1481P Nitrogen Sequence Table 2-03	August 23, 2001	404KB
2750-1481P Nitrogen Sequence Table 2-04	August 23, 2001	215KB
2750-1481P GA Sequence Table 2-05	August 23, 2001	2.12MB
2750-1481P GA Sequence Table 2-06	August 23, 2001	4.9MB
2750-1481P GA Sequence Table 2-07	August 23, 2001	142KB
2750-1481P GA Sequence Table 2-08	August 23, 2001	193KB
2750-1481P SA Sequence Table 2-09	August 23, 2001	12.6MB
2750-1481P SA Sequence Table 2-10	August 23, 2001	10.7MB
2750-1481P SA Sequence Table 2-11	August 23, 2001	857KB
2750-1481P SA Sequence Table 2-12	August 23, 2001	911KB
2750-1481P Sequence Table 2-13	August 23, 2001	10.6MB
2750-1481P Sequence Table 2-14	August 23, 2001	13.9MB
2750-1481P Sequence Table 2-15	August 23, 2001	840KB
2750-1481P Sequence Table 2-16	August 23, 2001	800KB
2750-1481P Sequence Table 2-17	August 23, 2001	12.2MB
2750-1481P Sequence Table 2-18	August 23, 2001	11.7MB
2750-1481P Sequence Table 2-19	August 23, 2001	658KB
2750-1481P Sequence Table 2-20	August 23, 2001	871KB
2750-1481P AFLP_Int Table 1	August 23, 2001	6.52MB
2750-1481P AFLP_Int Table 2	August 23, 2001	8.60MB

If there are any problems concerning the Compact Disk Submission, please contact the undersigned at telephone number 703-205-8000 or by facsimile at 703-205-8050.

Respectfully submitted,  
BIRCH, STEWART, KOLASCH & BIRCH, LLP

By Mark J. Nuell Date: 08/24/2001  
Mark J. Nuell, #36,623  
P.O. Box 747  
Falls Church, VA 22040-0747  
(703) 205-8000

RCS/DRN/BCF  
2750-1481P

File Name	Date of Creation	File Size
2750-1481P SA Reference Table 1-12	August 23, 2001	106KB
2750-1481P Reference Table 1-13	August 23, 2001	6.15MB
2750-1481P Reference Table 1-14	August 23, 2001	9.04MB
2750-1481P Reference Table 1-15	August 23, 2001	73.1KB
2750-1481P Reference Table 1-16	August 23, 2001	96.2KB
2750-1481P Reference Table 1-17	August 23, 2001	5.96MB
2750-1481P Reference Table 1-18	August 23, 2001	8.63MB
2750-1481P Reference Table 1-19	August 23, 2001	53.2KB
2750-1481P Reference Table 1-20	August 23, 2001	112KB
2750-1481P Nitrogen Sequence Table 2-01	August 23, 2001	6.30MB
2750-1481P Nitrogen Sequence Table 2-02	August 23, 2001	4.48MB
2750-1481P Nitrogen Sequence Table 2-03	August 23, 2001	404KB
2750-1481P Nitrogen Sequence Table 2-04	August 23, 2001	215KB
2750-1481P GA Sequence Table 2-05	August 23, 2001	2.12MB
2750-1481P GA Sequence Table 2-06	August 23, 2001	4.9MB
2750-1481P GA Sequence Table 2-07	August 23, 2001	142KB
2750-1481P GA Sequence Table 2-08	August 23, 2001	193KB
2750-1481P SA Sequence Table 2-09	August 23, 2001	12.6MB
2750-1481P SA Sequence Table 2-10	August 23, 2001	10.7MB
2750-1481P SA Sequence Table 2-11	August 23, 2001	857KB
2750-1481P SA Sequence Table 2-12	August 23, 2001	911KB
2750-1481P Sequence Table 2-13	August 23, 2001	10.6MB
2750-1481P Sequence Table 2-14	August 23, 2001	13.9MB
2750-1481P Sequence Table 2-15	August 23, 2001	840KB
2750-1481P Sequence Table 2-16	August 23, 2001	800KB
2750-1481P Sequence Table 2-17	August 23, 2001	12.2MB
2750-1481P Sequence Table 2-18	August 23, 2001	11.7MB
2750-1481P Sequence Table 2-19	August 23, 2001	658KB
2750-1481P Sequence Table 2-20	August 23, 2001	871KB
2750-1481P AFLP_Int Table 1	August 23, 2001	6.52MB
2750-1481P AFLP_Int Table 2	August 23, 2001	8.60MB

☐ Amend the specification by inserting before the first line the sentence:

This application contains a CDR, the entire contents of which are hereby incorporated by reference. The CDR contains the following files:

☒ Other: ATCC Deposit receipts PTA-595, PTA-1161, PTA-1411, PTA-2007; Information Sheet; Request for Nonpublication; Compact Disk Transmittal Letter

The filing fee has been calculated as shown below:

			LARGE ENTITY	SMALL ENTITY
BASIC FEE			\$710.00	\$355.00
	NUMBER FILED	NUMBER EXTRA	RATE FEE	RATE FEE
<b>TOTAL CLAIMS</b>	21- 20 =	1	X 18 = \$0.00	x 9 = \$9.00
<b>INDEPENDENT CLAIMS</b>	3- 3 =	0	x 80 = \$0.00	x 40 = \$0.00
<input type="checkbox"/> MULTIPLE DEPENDENT CLAIMS PRESENTED			+ \$270.00	+ \$135.00
<b>TOTAL</b>			\$0.00	\$364.00

- ☒ The application transmitted herewith is filed in accordance with 37 C.F.R. § 1.41(c). The undersigned has been authorized by the inventor(s) to file the present application. The original duly executed declaration together with the surcharge will be forwarded in due course.
- ☐ A check in the amount of \_\_\_\_\_ to cover the filing fee is enclosed.
- ☒ Please charge Deposit Account No. 50-1055 in the amount of \$364.00 to cover the filing fee. A triplicate copy of this transmittal form is enclosed.
- ☒ Please send correspondence to:  
 BIRCH, STEWART, KOLASCH & BIRCH, LLP - **Customer No. 2292**  
 P.O. Box 747  
 Falls Church, VA 22040-0747  
 Telephone: (703) 205-8000

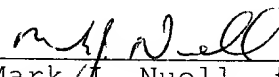
If the Primary Deposit Account No. 50-1055 is deficient and non-payment will result in a loss of rights, the Commissioner is hereby authorized in this, concurrent and future replies, to

Docket No. 2750-1481P

charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By   
Mark J. Nuell, #36,623

P.O. Box 747  
Falls Church, VA 22040-0747  
(703) 205-8000

RCS/DRN/BCF  
2750-1481P

Attachments

204280 22040-0747

# ATCC

10828 U.S. PTO  
09/935625  
08/24/01

10801 University Blvd • Manassas, VA 20110-2209 • Telephone: 703-365-2700 • FAX: 703-

BUDAPEST TREATY ON THE INTERNATIONAL RECOGNITION OF  
THE DEPOSIT OF MICROORGANISMS FOR THE PURPOSES OF PATENT PROCEDURE

INTERNATIONAL FORM

RECEIPT IN THE CASE OF AN ORIGINAL DEPOSIT ISSUED PURSUANT TO RULE 7.3  
AND VIABILITY STATEMENT ISSUED PURSUANT TO RULE 10.2

To: (Name and Address of Depositor or Attorney)

Ceres, Inc.  
Attn: Ling-Fong Chung  
3007 Malibu Canyon Road  
Malibu, CA 90265

Deposited on Behalf of: Ceres, Incorporated

Identification Reference by Depositor:

Patent Deposit Designation

*Arabidopsis thaliana* Wassilewskija ecotype seeds

PTA-595

The seeds were accompanied by:    a scientific description X a proposed taxonomic description indicated above. The seeds were received August 31, 1999 by this International Depository Authority and have been accepted.

AT YOUR REQUEST:   X   We will inform you of requests for the seeds for 30 years.

The seeds will be made available if a patent office signatory to the Budapest Treaty certifies one's right to receive, or if a U.S. Patent is issued citing the seeds and ATCC is instructed by the United States Patent & Trademark Office or the depositor to release said seeds.

If the seeds should die or be destroyed during the effective term of the deposit, it shall be your responsibility to replace them with viable seeds of the same.

The seeds will be maintained for a period of at least 30 years from date of deposit, or five years after the most recent request for a sample, whichever is longer. The United States and many other countries are signatory to the Budapest Treaty.

The viability of the seeds cited above was tested September 7, 1999. On that date, the seeds were viable.

International Depository Authority: American Type Culture Collection, Manassas, VA 20110-2209 USA.

Signature of person having authority to represent ATCC:

Barbara M. Hailey  
Barbara M. Hailey, Administrator, Patent Depository

Date: September 9, 1999

cc: Raymond Stewart, Esq. (Ref. Docket 80001.100)



# ATCC

10801 University Blvd • Manassas, VA 20110-2209 • Telephone: 703-365-2700 • FAX: 703-365-2745

## BUDAPEST TREATY ON THE INTERNATIONAL RECOGNITION OF THE DEPOSIT OF MICROORGANISMS FOR THE PURPOSES OF PATENT PROCEDURE

### INTERNATIONAL FORM

RECEIPT IN THE CASE OF AN ORIGINAL DEPOSIT ISSUED PURSUANT TO RULE 7.3  
AND VIABILITY STATEMENT ISSUED PURSUANT TO RULE 10.2

To: (Name and Address of Depositor or Attorney)

Ceres, Inc.  
Attn: Ling-Fong Chung  
3007 Malibu Canyon Road  
Malibu, CA 90265

Deposited on Behalf of: Ceres, Inc.

Identification Reference by Depositor:

Patent Deposit Designation

*Escherichia coli* LIBA010600

PTA-1161

The deposit was accompanied by:    a scientific description X a proposed taxonomic description indicated above.

The deposit was received January 7, 2000 by this International Depository Authority and has been accepted.

AT YOUR REQUEST: X We will inform you of requests for the strain for 30 years.

The strain will be made available if a patent office signatory to the Budapest Treaty certifies one's right to receive, or if a U.S. Patent is issued citing the strain, and ATCC is instructed by the United States Patent & Trademark Office or the depositor to release said strain.

If the culture should die or be destroyed during the effective term of the deposit, it shall be your responsibility to replace it with living culture of the same.

The strain will be maintained for a period of at least 30 years from date of deposit, or five years after the most recent request for a sample, whichever is longer. The United States and many other countries are signatory to the Budapest Treaty.

The viability of the culture cited above was tested January 19, 2000. On that date, the culture was viable.

International Depository Authority: American Type Culture Collection, Manassas, VA 20110-2209 USA.

Signature of person having authority to represent ATCC:

Barbara M. Halley  
Barbara M. Halley, Administrator, Patent Depository

Date: January 19, 2000

# ATCC

10801 University Blvd • Manassas, VA 20110-2209 • Telephone: 703-365-2700 • FAX: 703-365-2745

## BUDAPEST TREATY ON THE INTERNATIONAL RECOGNITION OF THE DEPOSIT OF MICROORGANISMS FOR THE PURPOSES OF PATENT PROCEDURE

### INTERNATIONAL FORM

RECEIPT IN THE CASE OF AN ORIGINAL DEPOSIT ISSUED PURSUANT TO RULE 7.3  
AND VIABILITY STATEMENT ISSUED PURSUANT TO RULE 10.2

To: (Name and Address of Depositor or Attorney)

Ceres, Inc.  
Attn: Bhuvana Gopalakrishnan  
3007 Malibu Canyon Road  
Malibu, CA 90265

Deposited on Behalf of: Ceres, Incorporated

Identification Reference by Depositor:

Patent Deposit Designation

*Escherichia coli* LIBA021800

PTA-1411

The deposit was accompanied by: \_\_\_ a scientific description X a proposed taxonomic description indicated above.

The deposit was received February 23, 2000 by this International Depository Authority and has been accepted.

AT YOUR REQUEST: X We will inform you of requests for the strain for 30 years.

The strain will be made available if a patent office signatory to the Budapest Treaty certifies one's right to receive, or if a U.S. Patent is issued citing the strain, and ATCC is instructed by the United States Patent & Trademark Office or the depositor to release said strain.

If the culture should die or be destroyed during the effective term of the deposit, it shall be your responsibility to replace it with living culture of the same.

The strain will be maintained for a period of at least 30 years from date of deposit, or five years after the most recent request for a sample, whichever is longer. The United States and many other countries are signatory to the Budapest Treaty.

The viability of the culture cited above was tested March 1, 2000. On that date, the culture was viable.

International Depository Authority: American Type Culture Collection, Manassas, VA 20110-2209 USA.

Signature of person having authority to represent ATCC:

  
Barbara E. Coupé, Administrator, Patent Depository

Date: March 1, 2000

# ATCC

10801 University Blvd • Manassas, VA 20110-2209 • Telephone: 703-365-2700 • FAX: 703-365-2745

## BUDAPEST TREATY ON THE INTERNATIONAL RECOGNITION OF THE DEPOSIT OF MICROORGANISMS FOR THE PURPOSES OF PATENT PROCEDURE

### INTERNATIONAL FORM

RECEIPT IN THE CASE OF AN ORIGINAL DEPOSIT ISSUED PURSUANT TO RULE 7.3  
AND VIABILITY STATEMENT ISSUED PURSUANT TO RULE 10.2

To: (Name and Address of Depositor or Attorney)

Ceres, Incorporated  
Attn: Bhuvana Gopalakrishnan  
3007 Malibu Canyon Road  
Malibu, CA 90265

Deposited on Behalf of: Ceres, Incorporated

Identification Reference by Depositor:

Patent Deposit Designation

*Escherichia coli* LIB060700

PTA-2007

The deposit was accompanied by:    a scientific description X a proposed taxonomic description indicated above.

The deposit was received June 8, 2000 by this International Depository Authority and has been accepted.

AT YOUR REQUEST: X We will inform you of requests for the strain for 30 years.

The strain will be made available if a patent office signatory to the Budapest Treaty certifies one's right to receive, or if a U.S. Patent is issued citing the strain, and ATCC is instructed by the United States Patent & Trademark Office or the depositor to release said strain.

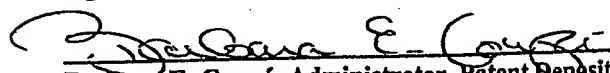
If the culture should die or be destroyed during the effective term of the deposit, it shall be your responsibility to replace it with living culture of the same.

The strain will be maintained for a period of at least 30 years from date of deposit, or five years after the most recent request for a sample, whichever is longer. The United States and many other countries are signatory to the Budapest Treaty.

The viability of the culture cited above was tested June 30, 2000. On that date, the culture was viable.

International Depository Authority: American Type Culture Collection, Manassas, VA 20110-2209 USA.

Signature of person having authority to represent ATCC:

  
Barbara E. Coupé, Administrator, Patent Depository

Date: June 30, 2000

IN THE U.S. PATENT AND TRADEMARK OFFICE

Applicant: ALEXANDROV, Nickolai and BROVER, Vyacheslav  
Appl. No.: NEW Group: UNASSIGNED  
Filed: August 24, 2001 Examiner: UNASSIGNED  
For: POLYNUCLEOTIDES, POLYPEPTIDES, CELLS,  
AND METHODS THEREOF CAPABLE OF  
MODULATING VARIOUS RESPONSES

REQUEST AND CERTIFICATION  
UNDER 35 U.S.C. § 122(b)(2)(B)(i)

Assistant Commissioner for Patents  
Washington, DC 20231

August 24, 2001

Sir:

Upon information and belief and to the best of my knowledge and understanding of the governing statutes and rules of USPTO procedures, I hereby certify that the invention disclosed in the attached application **has not and will not be** the subject of an application filed in another country, or under a multilateral agreement, that requires publication of this application at eighteen months after filing. I hereby request that the attached application not be published under 35 U.S.C. 122(b).

This request must be signed in compliance with 37 CFR 1.33(b) and submitted with the application **upon filing**.

Applicant may rescind this nonpublication request at any time. If applicant rescinds a request that an application not be published under 35 U.S.C. 122(b), the application will be scheduled for publication at eighteen months from the earliest claimed filing date for which a benefit is claimed.

If applicant subsequently files an application directed to the invention disclosed in the attached application in another country, or under a multilateral international agreement, that requires publication of applications eighteen months after filing, the applicant **must** notify the United States Patent and Trademark Office of such filing within forty-five (45) days after the date of the filing of such foreign or international application. **Failure to do so will result in abandonment of this application (35 U.S.C. 122(b)(2)(B)(iii)).**

If the Primary Deposit Account No. 50-1055 is deficient and non-payment will result in a loss of rights, the Commissioner is hereby authorized in this, concurrent and future replies, to

003555 082401

charge payment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By my a well  
Mark J. Nuell, #36,623  
P.O. Box 747  
Falls Church, VA 22040-0747  
(703) 205-8000

RCS/DRN/BCF  
2750-1481P

**B**